

CIVIL SERVICE COMMISSION MINUTES

February 7, 2001

A regular meeting of the Civil Service Commission was held at 2:30 p.m., on the 7th Floor, at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Mary Gwen Brummitt
Sigrid Pate
Gordon Austin
Barry I. Newman
Roy Dixon

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
February 7, 2001

1:45 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: 7th Floor, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
2,4,6,10	5,6		

COMMENTS Motion by Newman to approve all items not held for discussion; seconded by Austin. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Dixon: Sanford Toyen, Esq., on behalf of **Paul LaCroix**, Deputy Sheriff, appealing an alleged disciplinary reassignment with the Sheriff's Department. (Pre-hearing conference)

REGULAR AGENDA
County Administration Center, 7th Floor

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of January 17, 2001.

Approved.

DISCIPLINES

2. Commissioner Dixon: Sanford Toyen, Esq., on behalf of **Paul LaCroix**, Deputy Sheriff, appealing an alleged disciplinary reassignment within the Sheriff's Department. (Pre-hearing conference)

FINDINGS AND RECOMMENDATIONS:

Employee is a Deputy Sheriff, previously assigned as a Training Officer. In August, 2000, the Department removed him from his Training Officer responsibilities due to his failure to follow certain standards in the Department's Policies and Procedures. Employee's premium pay (approximately \$30.00/pay period) was removed due to his reassignment and he took the position that the reduction in compensation entitled him to a review under Rule VII of the Civil

Service Rules. The Department pointed out that the Commission recently denied Rule VII hearings to three deputy sheriffs and a sergeant alleging punitive transfers. The Department based its stance on the Dobbins case, wherein the court ruled that a reduction in compensation does not necessarily require a hearing. In contrast, Employee's representative claimed that Employee's case is similar, instead, to the Head case, wherein the court ruled that Deputy Marshal Head was entitled to appeal his removal because he was both removed and reduced in compensation.

Although no causes and charges were identified in the written document removing Employee from his position, the document stated "This memo is to inform you of the removal of your status as a Training Officer. . . ." At the pre-hearing conference, Employee's supervisor testified that he inadvertently used the word "removal" and instead should have used the word "reassigned". The hearing officer considered that testimony to be credible, however, the document in question details substandard performance of Employee and refers to a removal. Accordingly, it is ordered that the Civil Service Commission determine that the August 22, 2000 reassignment of Employee was disciplinary in nature; that Employee be granted a Rule VII disciplinary hearing; that the Department re-compose its August 2, 2000 memo to Employee in the form of a Proposed Order of Discipline, including causes and charges; that the Proposed Order of Discipline include Skelly rights, as customary; and that the proposed Decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Dixon to approve Findings and Recommendations.
Seconded by Pate. Carried.**

SELECTION PROCESS

Findings

3. **Steven Clarke**, appeal of removal of his name by the Department of Human Resources from the employment list for Deputy Sheriff.

RECOMMENDATION: Ratify item No. 3. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 3 ratified.

LIBERTY INTEREST

Complaints

4. **Rea Alvarez**, Senior Clerk, HHSA, requesting a Liberty Interest hearing regarding her failure of probation in the classification of Personnel Aide in the Office of the District Attorney.

RECOMMENDATION: Deny Request.

Ms. Alvarez addressed the Commission regarding her request for a Liberty Interest hearing. She explained that she was not given a mid-probation report (the Department inadvertently overlooked this report requirement) and was caught off-guard when she was told that she had failed probation. She is currently in training for the Naval Officer's Academy and feels that a background check indicating that she was failed on probation could be detrimental to her career with the Navy as well as the County.

Anthony Albers, Deputy County Counsel responded on behalf of the Department. He stated that this matter does not fall within the parameters of a Liberty Interest hearing, and that Ms. Alvarez had been failed due to performance issues only.

Motion by Dixon to accept staff recommendation. Seconded by Pate. Carried.

OTHER MATTERS

Seal Performance Appraisal

5. **Steven Ruff**, Sheriff's Sergeant, requesting the sealing of a performance appraisal for the period April 7, 1999 to April 7, 2000. (Continued from Commission meetings of December 6, 2000 and January 17, 2001.)

RECOMMENDATION: Continue to the next Commission meeting.

Continued.

6. **Philip Hill**, Senior Clerk, Department of Probation, requesting the sealing of a performance appraisal for the period May 8, 1999 to January 14, 2000. (Continued from Commission meeting of January 17, 2001.)

RECOMMENDATION: Continue to the next Commission meeting.

Mr. Hill requested that this item be pulled as he wanted to speak to the Commission regarding his right as a County employee to request sealing of his performance appraisal. He stated that he has been a loyal, hard working employee and should be rewarded with the right to come before the Commission with this request. Commissioner Brummitt explained that this matter, along with Item No. 5 above, would be continued due to the Workshop on sealing of performance appraisals that would follow this meeting.

Motion by Newman to accept staff recommendation. Seconded by Dixon. Carried.

Extension of Temporary Appointments

7. Health and Human Services Agency

- A. 10 Eligibility Technician's (Giffan Morse, Elizabeth Aguilar, Susana Ruiz, Binh Nguyen Dao, Ingrid Hernandez, Miriam Brillante, Madeline Croft, Diana Ojeda, Tisha Young, Patricia Kane)
- B. 2 Residential Care Worker I's (Regina Mitchell, Maribel Rios)
- C. 1 Protective Services Worker I (Jane Simone)
- D. 1 Protective Services Worker II (Denise Kemper)

8. Agriculture Weights and Measures

4 Insect Detection Specialist I's (Shannon Lehrter, Joseph Zumello, Robert MacGregor, Guadalupe Juarez)

RECOMMENDATION: Ratify Item Nos. 7 & 8.

Item Nos. 7 & 8 ratified.

9. Public Input.

10. Workshop on Sealing of Performance Appraisals (See attached outline.)

An open forum workshop was conducted to exchange ideas regarding the sealing of performance appraisals. Approximately 50 people attended, including representatives from the City of San Diego. Carlos Arauz, Director of DHR, addressed the Workshop, emphasizing that he felt the process of performance appraisals needed to be studied and perhaps modified. The Commission is currently considering options regarding policy and procedure relating to the process of sealing (CSC Rule V).

ADJOURNMENT: 5:00 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE FEBRUARY 21, 2001.